COMPLAINTS REGARDING ALLEGATIONS OF ABUSE

OF STUDENTS AT

JERICHO HILL PROVINCIAL SCHOOL FOR THE DEAF

INTERIM PUBLIC REPORT

June 1992

Ombudsman
Fairness for all in British Columbia

OMBUDSMAN
Legislative Assembly
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INTERIM PUBLIC REPORT

June 1992

Complaints Regarding Allegations of Abuse of Students at Jericho Hill Provincial School for the Deaf

In our society all children are vulnerable. Deaf Children are more vulnerable because of the inability of the majority of the people around them to communicate with them.

In most cases it is a natural role for parents to act as advocates for their children, ensuring that they receive necessary services and appropriate care. Sometimes parents need assistance to properly assume this role. When children require special services, trying to identify and access these services can be overwhelming in a highly complex system.

The vulnerability of children is further increased when their special needs can only be met by relying on institutional and residential programs away from their families and communities. For these children there is an even greater responsibility for all care givers to be vigilant in ensuring their safety and well being.

Brent Parfitt
A/Ombudsman

Recycled Paper

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OVERVIEW

The Ombudsman is investigating complaints that government did not properly respond to reports that some children were abused while attending the Jericho Hill Provincial School for the Deaf (Jericho Hill). Four Ministries have been involved: the Ministry of Education administers the residence at Jericho Hill and until January 1991 was responsible for the school staff and program; the Ministry of Social Services investigates reports of child abuse; the Criminal Justice Branch of the Ministry of Attorney General is responsible for criminal prosecutions; and the Ministry of Health provides counselling services for abused children and their families.

After reviewing the transcripts of children's statements, after listening to their families, their therapists, their advocates, and after listening to the victims of abuse themselves, the Ombudsman's Office has no doubt that some children at Jericho Hill were abused. We believe that children were abused and that many disclosed their abuse to adults in positions of authority.

Whether children were sexually or physically abused at Jericho Hill Provincial School for the Deaf is not the subject of this report. The Ombudsman does not determine whether or not abuse happened. The Ombudsman's Office is investigating how government responded to allegations that children at Jericho Hill School were abused.

Initially our investigation was focused on government's response to child abuse investigations in 1987. In March 1992 we agreed to expand our investigation to government's response to abuse allegations from 1982. By making ourselves accessible to the Deaf community, people came forward to talk to us. We have now received complaints about abuse dating from 1956. From the complaints we received about physical, sexual, and emotional abuse, it is evident that many tragedies have occurred. Deaf students, some now adults, have attempted or committed suicide, have offended against others, have been convicted of crimes, have become estranged from their families, and had their children

apprehended.

Deaf children who disclosed abuse 10 years ago are now adults. The abuse they experienced has directly and indirectly contributed to their need for public services. They are still confronted with obstacles to communication and accessibility to the services they need. We know appropriate services are not, for the most part, available to them.

We also heard from students, former students, and their families, who were not abused when they attended Jericho Hill and who had positive experiences. We were told of many happy memories.

This is an interim report of an investigation that is still under way. We are continuing to investigate the actions of government.

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INTERIM REPORT

It is not the usual procedure for the Ombudsman to issue an interim report to the public when investigating complaints. The reasons for releasing this report now are to provide assurance that not all children who attended Jericho Hill in the past have been abused, to inform the public about the steps currently being taken to ensure children presently at Jericho Hill School are not at risk, and to explain the role of the Ombudsman and our investigation process.

We are investigating government responses to issues that have been reported to the government authorities and the police not once, but twice before. We are investigating what government did and did not do about child abuse, at the same time that there is an active police investigation occurring.

This interim report comes at a time when we have not yet reviewed all the evidence or interviewed all the people who were involved in the previous investigations. There is much work yet to be done in reviewing what was done or was not done when

students of Jericho Hill Provincial School disclosed abuse in 1982 and in 1987. That is why this report does not speak to these issues. The Ombudsman will report on these issues when this investigation has been completed.

This interim report focuses on the role of the Ombudsman's office, the facts known to us, and the steps being taken to ensure that Deaf children and adults receive appropriate services. We are providing a context and background for our next report which will be released at the conclusion of our investigation.

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THE ROLE OF THE OMBUDSMAN

The Ombudsman's Office is an independent office of the legislature. It receives and investigates complaints from individuals about the administrative decisions and actions of the provincial government. Last year approximately 16,000 people contacted this office through the toll free telephones, letters, faxes and by coming into the Vancouver and Victoria Offices.

In its investigations and reports, the Ombudsman's Office does not act as an advocate for the complainant, but rather as an advocate for administrative fairness.

The Ombudsman Act gives our investigators the right of access to provincial government files, documents, tapes and computer records, as well as the ability to question any person who may have information about a matter under investigation.

When an investigation is completed the Ombudsman's Office reports the conclusions to the individual who made the complaint. If it is found that government acted unfairly, we work with the individual and the appropriate government authority to find a satisfactory solution to the complaint. When a complaint is recurring in a system, the Ombudsman can initiate an investigation of the system.

When we report the results of an investigation to the

public, we must be certain that our conclusions are based on facts obtained through available evidence. The Ombudsman Act sets out specific requirements which must be followed if, during the course of an investigation, we find that the actions or inactions of government were improper or unfair.

First we must provide our reasons and findings to any person or government authority who might be affected by our report. This is not so that the person can tell us not to print something which might be critical. This is to allow the person to provide any additional information which we might have overlooked, or to allow the person to challenge our findings. This is a fair process. It makes sure that a person's or authorities' reputation or livelihood are not jeopardized by inaccurate or misleading information. Then we may report our findings to the public with our recommendations to correct the situation.

It is the duty of the Ombudsman's Office to recommend change where we find that the administrative actions of government have not been fair.

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PRINCIPLES OF FAIRNESS

All investigations by the Ombudsman are based on fundamental principles which apply to the administration or delivery of public services to children and youth and their families.

The Ombudsman's Office can summarize three essential conditions that must be met if we are to consider a government decision fair. The first is that in all decisions affecting a person, that person has a right to participate in the decision making process. This is the right to be heard. Second, the person must be given the reasons as to how the decision was reached. Third, the person shall be given the opportunity to challenge or request a review of the decision which was made.

In 1974 Ben Chud reported the findings of an Inquiry into the Jericho Hill School. This report made several recommendations based on some guiding principles which the Ombudsman's Office believes are appropriate. The first principle

is that services provided for Deaf children "must meet the needs of the whole child within the context of his family and community". The second is that "comprehensive, consistent and coordinated educational, health and social services from the point of diagnosis" were essential and, thirdly, that the "decision-making process concerning the services and education" of these children must rest with those who have the necessary expertise: adult representatives of the Deaf community, the parents of these children, and others appointed by the Ministry of Education. (Chud, p.4, 1974)

Today the United Nations Convention on the Rights of the Child, ratified by Canada, affirms the right of children to participate in the decision-making process by specifically providing for children to have the right to be heard. (U.N. Convention, Article 12, 1989)

The 1990 Ombudsman Annual Report provided a checklist for agencies and authorities who deliver public services. (p.15) This checklist can be used to ensure that these services are being fairly administered.

The first item in the administrative checklist is concerned with information and communication. It states all public information about the service provided must be "sufficiently detailed, understandable and readily available to those affected". Regarding physical facilities, the checklist states the authority must provide adequate telephone access, including toll free access. The checklist also asserts that those affected by decisions and services provided must be given adequate opportunity to present their views or to present evidence in support of their positions.

In order for the public to make a complaint to the Ombudsman's Office, we have to be accessible. We have 24 hour toll free telephone lines for people to call. We routinely visit individuals who reside or are detained in government institutions and we provide the residents with an opportunity to meet with Ombudsman staff in private. We distribute brochures and posters telling people how to contact us.

We had a special telephone for the Deaf (TTY) in our Victoria office and accepted collect calls through the Message Relay Centre. To our embarrassment we discovered that the TTY was not working properly and so failed our own administrative fairness checklist by not being accessible. Since then we have installed a new 24 hour toll free TTY.

To ensure greater accessibility we are exploring ways of reporting our findings of the Jericho Hill investigation on video, in sign, with closed captions and voice over.

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OMBUDSMAN INVESTIGATION PROCESS

It is difficult to talk about painful personal experiences, especially to strangers. The Ombudsman's Office makes every effort to be sensitive to the needs of complainants who are reporting such experiences.

The Jericho Hill investigation has been unlike any other investigation. We have not usually gone outside the office for additional investigative staff. We have not required professional interpreters before. In this case, to ensure access, understanding, and a credible report we have hired two Deaf investigators and we have used professional interpreters.

We considered very carefully who these people might be. We wanted to build an investigating team to include Deaf people who were knowledgable about how government works, child centred, cognizant of the dynamics of sexual and physical abuse, familiar with Jericho Hill, and very importantly, not implicated in any allegations of past or present abuse.

The Ombudsman's Office conducted very thorough interviews, including background and criminal record checks. We hired a Deaf social worker who is a specialist in sexual abuse prevention and British Columbia's only Deaf lawyer. Both were graduates of Jericho Hill and had briefly returned to the school to work during their careers. We were also fortunate to enlist the assistance of a professional, registered and highly skilled sign

and voice interpreter to work with our investigation team. She also was carefully screened for any conflicts of interest and checked for a criminal record.

Some hearing people said that they believed that there might be a conflict of interest because we employed two Deaf people who had been associated with Jericho Hill School. We carefully considered the experiences and knowledge of prospective candidates for these positions and concluded that their previous experiences with Jericho Hill did not pose a conflict and that the candidates selected have the required objectivity, qualifications and expertise. In fact, familiarity with Jericho Hill and its internal dynamics has helped us to clarify some of the information and evidence we have received.

Hearing people told our hearing investigators that Deaf people do not want to talk to Deaf people because the Deaf community is so well known to one another. We offer callers a choice at every contact and with rare exceptions, Deaf people asked specifically to speak to Deaf investigators. Repeatedly Deaf people told us they wanted to talk to others who are Deaf.

Some people expressed their concern about providing us with information. They cited recent newspaper articles about former Jericho Hill students and said that some of the articles made it easy to identify the individuals in them. Some people were also concerned that the Ombudsman's Office would share information with other agencies, other authorities, other individuals and the media.

All Ombudsman staff take an oath of confidentiality that says we will not discuss information about individuals or their situations with anyone outside the Ombudsman's Office unless that person tells us it is all right to do so. We do not share information about complainants with other authorities, with other agencies, with the parents of adult complainants, with other interpreters, or with the media, without the complainant's permission.

To inform the public of our investigation, we asked three organizations that serve the Deaf community to include in their

publications, notices about the Ombudsman's investigation and how to contact us. We mailed out more than 1,000 notices to advise that we were planning public information meetings.

We held four public information meetings, two in Vancouver and two in Victoria to tell people about the Ombudsman's role. In each location the first public information meeting was held in sign language only in order to offer the most access to Deaf people. The second public information meeting included voice and sign interpretation. All these meetings provided the same information.

We invited members of the Jericho Hill School Intervention Team and the Criminal Justice Branch of the Ministry of Attorney General to these meetings to explain publicly what they are doing.

We are reviewing provincial government documents and we will be interviewing current government authorities as well as some former government employees. We have not concluded our investigation. It is our responsibility to report on these past issues only when we can say, publicly, that we have conducted a comprehensive investigation into the matter.

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OTHER AUTHORITIES & THEIR RESPONSIBILITIES

In April 1992 the Criminal Justice Branch of the Ministry of Attorney General held a training workshop for police, Crown counsel, social workers, and other investigators to learn about Deaf culture and about the best ways of investigating and prosecuting cases involving Deaf persons. The Criminal Justice Branch invited experts from throughout North America to present at this workshop. The Deaf community participated in the development of the guidelines or protocol for the investigation and prosecution of allegations of abuse by people with particular communication needs.

As a result of this workshop, a Jericho Hill School Intervention Team made up of a Deaf consultant, social workers

and mental health workers from the Ministries of Social Services and Health, police from the Vancouver City Police Department, and professional sign and voice interpreters was established.

There are approximately 100 children and youth who currently attend Jericho Hill Provincial School for the Deaf. The Intervention Team is meeting with children, parents and the staff. One role of the Jericho Hill School Intervention Team is to determine whether or not Jericho Hill students are in need of protection and to offer needed services to students, former students, and their families.

Students and former students who have been abused may choose to accept support services without making a criminal complaint to the police. Any disclosures made in therapy will be kept confidential unless the disclosure indicates another child is in need of protection.

The Intervention Team is currently compiling a list of registered psychologists, social workers, and therapists who have some signing abilities or who will work with interpreters. The Intervention Team acknowledges that the number of qualified people who understand Deaf culture and are available to counsel is very limited.

The Ombudsman's Office refers complainants who want services to the Jericho Hill School Intervention Team. We are closely monitoring this function of the Intervention Team.

Another role of the Intervention Team is to gather evidence of alleged criminal wrong doing. The Criminal Justice Branch is reviewing evidence from children's abuse disclosures in 1982 and 1987 as well as earlier disclosures for possible criminal charges. The Criminal Justice Branch will also review new disclosures to determine whether there should be any criminal prosecutions.

The Crown counsel's Office in the Criminal Justice Branch has recognized that in the ten years since the 1982 abuse disclosures, attitudes about the reliability of children, including Deaf children, as witnesses have changed. Laws have

developed so that children can now appear in court to give evidence and be tested for credibility, with a minimum of trauma. Crown counsel are developing expertise in working with Deaf witnesses using sign and voice interpreters.

Where a police investigation shows evidence that a person in a position of trust, such as a teacher or a child care counsellor, is alleged to have abused a child, that person will be charged and prosecuted where there is a substantial likelihood of conviction.

Some students at Jericho Hill who were victimized by adults went on to offend against other students. These cases of peer abuse, although clearly wrong, require a response by government that is supportive to both the victim and the offender. The Criminal Justice Branch has approved a diversion policy that responds to this type of peer abuse. Where a student has disclosed abuse by another student or a peer which does not involve significant physical or emotional harm, the victim can agree that the offender can be diverted from a criminal prosecution as long as the offender is prepared to admit that it was wrong to have abused, to apologize to the victim, and to agree to therapy. Before being accepted for the diversion program, the offender will also be required to undergo a psychiatric assessment to ensure the offender is not a long term risk to society.

Students and former students who were victimized and then offended against others may apply for and receive support services, or make a complaint to the police against the person who victimized them without concern that this contact will be used to incriminate. If these students or former students become suspects, this will be dealt with at a separate time and only after they have had an opportunity to obtain legal advice. Government will provide interpreters for this process.

At this time it is the responsibility of School District No. 41 (Burnaby) to review the conduct of teachers and administrators at Jericho Hill Provincial School for the Deaf. It is the responsibility of the Ministry of Education to administer the residential program at Jericho Hill Provincial School for the

Deaf. It is the responsibility of the Ministry of Social Services to receive and investigate reports that a child is at risk and in need of protection. It is the responsibility of the Ministry of Health to provide mental health services. It is the responsibility of the police to determine if actions are criminal in nature. It is the responsibility of the Ministry of Attorney General's Crown counsel to consider the police investigation for possible criminal charges and prosecution. It is the responsibility of the Ombudsman to ensure that jurisdictional authorities carry out their duties in a fair and appropriate manner.

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JERICHO HILL SCHOOL

Jericho Hill Provincial School was originally established as an education and training centre for deaf and for blind students. A 1974 Commission of Inquiry recommended that two schools be established to separately serve deaf from blind students. By 1980 Jericho Hill School was recognized as a centralized resource serving Deaf children from all over the province. The school has always had a mix of day students and those who lived as residential students in the dormitories. Some students spent 10 to 15 years of their lives at this school, returning home only infrequently when the school closed for holidays.

The school has served both elementary and secondary students and now has classes from kindergarten to grade 12. This school has been the subject of a number of reports over the years. There have been numerous recommendations about structural and staffing changes, about Jericho's academic programs and about services to the Deaf community. Few of these reports have meaningfully involved Deaf people in decisions leading to the recommendations.

The issues arising from Jericho Hill School are not unique to B. C. There have also been reports of abuse investigations in schools for the Deaf in Ontario. These public reports made recommendations regarding the safety of Deaf children attending schools in that province.

In the United States, Dr. Patrick Brookhouser has developed several administrative strategies for ensuring the well being of Deaf students attending residential schools. He identifies several key elements: clearly stated policies which focus on children's safety, ongoing and appropriate staff training, direct observation and evaluation of staff, satisfaction evaluations by students and their families and an open environment. (Brookhouser, p.64, 1987)

The Ministry of Education is planning to contract for an independent audit of the program at Jericho Hill School. The Ombudsman's Office will have an opportunity to review this audit prior to our final report.

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THE DEAF COMMUNITY

The Ombudsman's Office has learned a great deal about the Deaf community and Deaf culture since starting this investigation.

A 1989 Ontario Ministry of Education report identified approximately 1.7 per 1,000 individuals in the school age population as Deaf. (Ontario Ministry of Education, p. 173, 1989) In a report prepared for the Greater Vancouver Association of the Deaf, author Linda Franchi estimates there are 1,400 deaf and hard of hearing students in B. C. (Franchi, p.3, 1991) A 1992 provincial government publication, A Closer Look: A Profile of People with Disabilities in British Columbia, estimates one of six disabled children in the province also have a hearing problem. (p.23)

Deaf people learn to communicate in a variety of ways. Some people who are not deaf, but hard of hearing, use an FM system of transmitters and amplifiers, or hearing aids, to enable them to hear. Some people who have been educated orally, learn to lip read and speak. Some people use a system of signs which conveys a whole language of concepts and ideas similar to any other language. Sign language is a complete language. It is not a simplified version of English.

Sign language is a language with symbolic codes to represent ideas just as oral langauge has symbolic codes to represent ideas. Sign language is expressed through physical movement using the hands, arms, face and body to sign. In North America the predominant language of the Deaf is a sign language called American Sign Language or Amslan or ASL. In the workshop sponsored by the Criminal Justice Branch, Dr. Patricia Sullivan said that ASL is the third most commonly used non-English language in North America.

In a hearing society, Deaf people must rely on voice and sign interpreters to talk with hearing people. An interpreter is an essential communication aid. Interpreters are people who are able to interpret one language into another, such as ASL into English and English into ASL. Sign and voice interpreters are a crucial link between a Deaf person and the hearing world. Interpreters must be sufficiently qualified to communicate the full meaning and context of every word in a conversation at a comprehensive, rapid rate that accurately portrays what each person is saying. Interpreters should be professional and highly skilled. As with other professionals, registered interpreters have a code of ethics and an undertaking of confidentiality.

In many American states, schools, hospitals, health clinics, mental health programs, courts and law enforcement agencies are required by law to ensure effective communication between Deaf and hearing people by providing professional interpreters.

In British Columbia there are very few interpreters who have reached a sufficient level of proficiency to be registered. Whoever requires their assistance to communicate with others must pay for their services. For Deaf people to access services, the Deaf person pays the interpreter to communicate with hearing people. In British Columbia there is no requirement for public services to provide or fund interpreters for Deaf people.

Hearing people can take for granted the ability to use the telephone to communicate with friends, family, businesses, private and public services, and emergency services. Hearing people can use a telephone to order a pizza or call an ambulance to their home.

Deaf people must pay for a special telephone for the Deaf. It does not ring, a light flashes. It has a small keyboard to display the words being entered, similar to a small computer or calculator. It allows the user to read what is being said. This special telephone is referred to as a TTY or TTD. The cost of a TTY can start at $300.00, depending on the model purchased. If a Deaf person has a TTY, she or he can call anyone else who also has a TTY. If only one individual has the TTY, it does not work.

In cases where there is only one TTY, a service provided by B. C. Telephone Company, called the Message Relay Centre, is required. The Message Relay Operator receives the message and, using a TTY, reads the message to the hearing person using a regular telephone and types the message to the Deaf person using a TTY. In British Columbia, few public services have TTYs available for Deaf people to use.

A number of studies in Canada as well as in the United States have shown that the average reading and language levels of Deaf children are significantly lower than hearing children of the same age. The question of how best to educate Deaf children has often focused on the method of communication: oral or signed. This is an old controversy. It is reflected in the ongoing debate about whether it is better to mainstream or integrate Deaf children into hearing schools with appropriate educational supports, or to provide a centralized educational facility where Deaf children are the norm and can benefit from a positive peer culture environment.

Many Deaf youth and adults with whom we have met have asserted that Deafness is a cultural condition and that it is insulting to be considered handicapped or impaired.

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SUMMARY OF COMPLAINTS

In 1987 the Ombudsman's Office received a complaint regarding allegations of abuse at Jericho Hill School. At that time our Office was assured by the Ministry of Education that steps were being taken to ensure the safety and well being of

students. We did not close our file from 1987, but maintained an open file to monitor the outcome of the services being offered.

The Ombudsman's Office is investigating the following current complaints about government decisions in relation to Jericho Hill School.

Recently, complainants have told us that the assurances given by the Ministry of Education in 1987 have not been implemented. Many parents of students who had been abused have said they were not informed of the nature or details of abuse. Some complainants said appropriate and ongoing therapy was not satisfactorily provided to students or families, and only minimal efforts had been made to retain signing therapists. Some complainants said that abuse prevention programs were not introduced, the conditions which allowed abuse to occur in the past still exist, and thus students are still at risk.

Some complainants said that although they disclosed that they had been abused, they did not observe any changes in the school and they do not know whether anyone in authority believed them.

We are also currently reviewing the following concerns:

* that some students from Jericho Hill School were wrongfully suspended;
* that few staff at Jericho Hill are proficient in ASL and fewer staff at the school are Deaf;
* that the school environment does not meet the needs of Deaf students;
* that telephones and fire alarms and smoke detectors are designed for hearing students and staff instead of being equipped with signal lights;

From these complaints, more general concerns have arisen, including:

* parents who are concerned about how to ensure that children are safe;
* education that is not culturally appropriate;

* appropriate support required when Deaf students leave school
* services that are available being designed by hearing people with incorrect assumptions about what Deaf people need and are therefore inappropriate;
* insufficient opportunities for parents and family members to learn ASL.

In some cases, the complaints focus on areas which are beyond the Ombudsman's jurisdiction to review, and require a political response from the Members of the Legislative Assembly. Concerns have been received about:

* the systematic exclusion of Deaf people from the planning and the decision-making processes, for example, the decision to relocate Jericho Hill Provincial School to Burnaby was made without consulting Deaf people;
* that the school is not administered by Deaf people;
* a lack of qualified interpreters;
* interpreters not being funded by government to ensure access to public services;
* assumptions by the hearing society that the ability to communicate in sign language is not as important as other professional credentials;
* too few professionals who are fluent in ASL for Deaf clients who want services to be delivered in ASL;
* the prohibitive cost of purchasing a TTY for many Deaf people and their families.

This is a general summary, not an exhaustive list of complaints received. We expect to continue to receive additional complaints prior to the final report.

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RECOMMENDATION

Access to public services for Deaf people is a major concern of all the complainants with whom we have met. It is evident that Deaf people have not had equal access to public services. We believe to overcome this problem, members of the Deaf community and government officials must work together.

We do not believe it is necessary to await the outcome of the Ombudsman's investigation before government responds to the needs of the Deaf. In the interim, the Ombudsman recommends

THAT GOVERNMENT APPOINT AND PROVIDE RESOURCES TO AN INDEPENDENT ACTION COUNCIL MADE UP OF MEMBERS OF THE DEAF COMMUNITY WITH A MANDATE TO MAKE RECOMMENDATIONS TO ENSURE FAIR ACCESS TO ALL PUBLIC SERVICES.

HOW TO CONTACT

To call the Ombudsman's Office Jericho Hill Investigation Team:

TTY 24 hour toll free	1-800-667-1303
TTY 24 hour (Victoria)	387-5446
Voice 24 hour toll free	1-800-742-6157
Voice 24 hour (Victoria)	387-5855

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To call the Jericho Hill Intervention Team:

TTY toll free	1-800-663-1150
TTY (Vancouver calls)	775-1364
Voice (can call collect)	775-1356

To call for information from Crown counsel:

(Vancouver) Michael Hicks 660-4100

(Victoria) Ernie Quantz 387-5174

Use Message Relay Centre
Will accept collect calls
TTY to be installed in near future

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